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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

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DANIEL THOMASON SMITH,

Petitioner,

*versus*

WARDEN FCC BEAUMONT,

Respondent.

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CIVIL ACTION NO. 1:20-CV-279

MEMORANDUM ORDER OVERRULING OBJECTIONS AND ADOPTING  
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Petitioner Daniel Thomason Smith, proceeding *pro se*, filed this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. The court referred this matter to the Honorable Keith F. Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court.

The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge concerning the petition. The magistrate judge recommends the petition be dismissed.

The court has received the Report and Recommendation of United States Magistrate Judge, along with the record, pleadings, and all available evidence. Petitioner filed objections to the Report and Recommendation. The court must therefore conduct a *de novo* review of the objections in light of the pleadings and the applicable law.

Petitioner challenges several criminal convictions. The magistrate judge correctly concluded that as petitioner's grounds for review are not based on a retroactively applicable Supreme Court decision that establishes he may have been convicted of a nonexistent offense, he may not assert his grounds for review in a petition filed pursuant to Section 2241. *Reyes-Quenya v. United States*, 243 F.3d 893, 894 (5th Cir. 2001).

ORDER

Accordingly, petitioner's objections are OVERRULED. The findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge is ADOPTED. A final judgment shall be entered dismissing the petition.

**Signed this date**

Oct 27, 2020



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MARCIA A. CRONE

UNITED STATES DISTRICT JUDGE